

****E-filed 8/18/11****

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TYLER HINKLE,
Plaintiff,
v.

No. C 10-5673 RS

**ORDER RE MOTION TO
TERMINATE DEADLINES AND
HEARING DATES**

SONY NETWORK ENTERTAINMENT
AMERICA, INC.,
Defendant.

Defendant moves to terminate all deadlines and pending hearing dates in this action in light of the Conditional Transfer Order entered by the Judicial Panel on Multidistrict Litigation. Plaintiff opposes, arguing that his fully-briefed motion to remand should go forward on August 25, 2011 as presently scheduled. While jurisdiction may lie to decide the remand motion pending the transfer, the interests of justice and judicial economy do not warrant doing so under the particular circumstances presented here.

The remand issue turns on interpreting the effect of an arguably ambiguous contractual venue provision. As such, this case differs from *Moton v. Bayer Corp.*, 2005 WL 1653731 (S.D. Ala. July 8, 2005), cited by plaintiff, in which the court faced a “simple, garden-variety attack on the amount in controversy,” and concluded that, “[t]he proper resolution of the motion is plain and not susceptible of reasonable dispute.” *Id.* at *1–2. Furthermore, it appears there may be additional actions subject to the transfer order that will present the same venue issue. Although one such case

1 was recently related to this action, it appears likely that the MDL court will later be called on to
2 decide the identical question in one or more other cases. Accordingly, the hearing on plaintiff's
3 motion to remand and the initial Case Management Conference are hereby both continued
4 provisionally to October 13, 2011, at 1:30 p.m., to go forward at that time only in the event this
5 matter is not transferred to the MDL proceeding.

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8 IT IS SO ORDERED.

9 Dated: 8/18/11



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE